

**MANUEL YBIERNAS, VICENTE YBIERNAS, MARIA CORAZON ANGELES, VIOLETA YBIERNAS, AND VALENTIN YBIERNAS, PETITIONERS, VS. ESTER TANCO-GABALDON, MANILA BAY SPINNING MILLS, INC., AND TH...**

*G.R. No. 178925. June 01, 2011*

Ponente: NACHURA, J.

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**NACHURA, J.:**

This petition for review on certiorari assails the Court of Appeals (CA) Resolutions[1] dated January 31, 2007 and July 16, 2007. The assailed Resolutions granted respondents' motion for new trial of a case for quieting of title and damages, decided in petitioners' favor by the trial court in a summary judgment.

The facts of the case are, as follows:

Estrella Mapa Vda. de Ybiernas (Estrella) owned a parcel of land located in Talisay, Negros Occidental, and covered by Transfer Certificate of Title (TCT) No. T-83976. On April 28, 1988, Estrella executed a Deed of Absolute Sale[2] over the property in favor of her heirs, Dionisio Ybiernas (Dionisio) and petitioners Manuel Ybiernas, Vicente Ybiernas, and Maria Corazon Angeles.

On June 30, 1989, the Regional Trial Court (RTC), Branch 47, Bacolod City issued an Order in Cadastral Case No. 10, LRC (G.L.R.O.) Rec. No. 97, Lot 713-C-B, Psd-220027, Talisay Cadastre, directing the registration and annotation of the Deed of Absolute Sale on the title. Thus, on July 5, 1989, the Deed of Absolute Sale and the said RTC Order were annotated on the title, as follows:

Entry No. 334150; Order; Dionisio M. Ybiernas; Order issued by the RTC of Negros Occ. to register and annotate the deed of sale on this title without need of presenting the owner's duplicate. Date of order-June 30, 1989; Date of prescription-July 5, 1989 at 10:45 a.m.

Entry No. 334151; Sale; Dionisio Ybiernas, et al; Deed of absolute sale of this property for the sum of P650,000.00 in favor of Dionisio Ybiernas, Vicente M. Ybiernas, Manuel M. Ybiernas and Maria Corazon Y. Angeles in undivided equal share to each; doc. no. 437, page 89, book VI, series of 1988 of the not. reg. of Mr. Indalecio P. Arriola of Iloilo City. Date of instrument-April 28, 1988; Date of inscription-July 5, 1989 at 10:45 a.m.[3]

On October 29, 1991, respondents Ester Tanco-Gabaldon and Manila Bay Spinning Mills, Inc. filed with the RTC of Pasig City a Complaint[4] for sum of money and damages, amounting to P6,000,000.00, against Estrella and three other individuals. The Complaint alleged that the defendants were guilty of fraud when they misrepresented to herein respondents that they own a parcel of land in Quezon City, and that the title over the said property is free from liens and encumbrances.

Upon respondents' motion, the Pasig City RTC, in an Order[5] dated November 6, 1991, ordered the issuance of a writ of preliminary attachment upon filing of a bond. The sheriff issued the corresponding writ of attachment and

levied the subject property.[6] On November 13, 1991, the notice of attachment was annotated on TCT No. T-83976 as Entry No. 346816.[7]

When Estrella's heirs learned about the levy, Dionisio filed, on January 14, 1992, an Affidavit of Third-Party Claim, asserting the transfer of ownership to them.[8] Respondents, however, filed an indemnity bond; thus, the sheriff refused to lift the levy.

The Pasig City RTC resolved the Complaint for sum of money in favor of respondents, and Estrella, et al. were ordered to pay P6,000,000.00, plus legal interest and damages. Respondents, however, elevated the case all the way up to this Court, questioning the interest rate. This Court eventually denied the appeal in a Minute Resolution dated November 20, 2002, which became final and executory on April 14, 2003.[9]

In the meantime, Dionisio died and was succeeded by his heirs, petitioners Valentin Ybiernas and Violeta Ybiernas.

On November 28, 2001, petitioners filed with the RTC of Bacolod City a Complaint for Quieting of Title and Damages,[10] claiming that the levy was invalid because the property is not owned by any of the defendants in the Pasig City RTC case. They averred that the annotation of the RTC Order and the Deed of Absolute Sale on TCT No. T-83976 serves as notice to the whole world that the property is no longer owned by Estrella.

In their Answer with Counterclaims,[11] respondents contended that (a) the case constituted an interference in the proceeding of the Pasig City RTC, a co-equal court; (b) petitioners should have filed their claims against the indemnity bond filed by respondents; and (c) petitioners were guilty of forum-shopping, considering that the case actually sought a relief similar to the third-party claim.

During pre-trial, the parties admitted, among others, the "[e]xistence of the Order dated June 30, 1989 by RTC Branch 47, Bacolod City, in Cad. Case No. 10 concerning the same TCT No. T-83976." [12]

On July 30, 2004, petitioners filed a motion for summary judgment. The RTC initially denied the motion in the Order dated December 23, 2004.[13] Upon petitioners' motion for reconsideration, the RTC granted the motion for summary judgment in the decision[14] dated December 27, 2005. The RTC made the following pronouncement:

A consideration of the issues defined by the parties during the pre-trial x x x shows quite clearly that they are issues that may already be properly resolved now at this stage of the proceedings in this case, as they, other than the amount of damages, are quite apparently pure questions of law, the factual antecedents for these issues having already been admitted by the parties.

As to issue No. 1 [whether ownership has been transferred to petitioners], it is a fact well-established, as admitted by the parties and shown by the annotation as Entry No. 334151 on said TCT No. T-8[39]76, that the said Deed of Absolute Sale, dated April 28, 1988 over the subject property by Estrella Mapa Vda. de Ybiernas in favor of Dionisio Ybiernas, Vicente Ybiernas, Manuel Ybiernas and Maria Corazon Y. Angeles, was validly annotated as such Entry No. 334151, inscribed on July 5, 1989, on said TCT No. T-83976 registered in the name of Estrella M. Ybiernas.

Neither the defendants nor anyone else has challenged the validity of the judicial proceedings before RTC, Branch 47, Bacolod City, which issued in Cadastral Case No. 10, the said Order dated June 30, 1989, which directed the registration and annotation of the said Deed of Absolute Sale dated April 28, 1988 on said TCT No. T-83976, and which led to the annotation under said Entry No. 334151 on said TCT No. T-83976.[15]

Thus, the dispositive portion of the December 27, 2005 RTC decision reads:

WHEREFORE, except as to the amount of damages, a summary judgment is hereby rendered in favor of the

plaintiffs and against the defendants, and as prayed for by the plaintiffs in their complaint:

- The levy on attachment made by herein defendant Sheriff of RTC, Branch 163, Pasig City on said TCT No. T-83976, issued by the Registrar of Deeds of the Province of Negros Occidental, covering the Subject Property, is hereby DECLARED INVALID; and, consequently,
- Entry No. 346816 on the same TCT No. T-83976 is hereby CANCELLED and DISSOLVED.

SO ORDERED.[16]

Respondents filed a notice of appeal,[17] and it was granted by the RTC.

While the appeal was pending in the CA, respondents filed a motion for new trial,[18] claiming that they have discovered on May 9, 2006 that Cadastral Case No. 10 did not exist and the April 28, 1988 Deed of Sale was simulated. Attached to the motion were the affidavit[19] of Atty. Gerely C. Rico, who conducted the research in Bacolod City in behalf of the law office representing respondents, and the following certifications:

- Certification dated 09 May 2006 issued by Ildefonso M. Villanueva, Jr., Clerk of Court VI of the RTC of Bacolod City, stating that: "no cadastral case involving Lot 713-C-1-B, Psd-220027, Talisay Cadastre, was filed with this office sometime on 30 June 1989 and raffled to Branch 47 of this court which was then presided by Judge Enrique T. Jocson." [20]
- Certification dated 09 May 2006 issued by Atty. Mehafee G. Sidenio, Clerk of Court V of the RTC of Bacolod City, Branch 47, stating that: "as per records of this court, no Cadastral Case No. 10, LRC, GLRO Rec. 97, Lot No. 713-C-1-B, Psd 220027, filed by Dionisio Ybiernas was filed and docketed in this office." [21]
- Certification dated 11 July 2006 issued by Estrella M. Domingo, OIC Archives Division of the National Archives Office, stating that: "no copy is on file with this Office of a DEED OF SALE allegedly executed by and among ESTRELLA MAPA VDA. DE YBIERNAS, DIONISIO YBIERNAS, VICENTE M. YBIERNAS, JR., MANUEL YBIERNAS and MARIA CORAZON ANGELES, ratified on April 28, 1988 before INDALECIO P. ARRIOLA, a notary public for and within Iloilo City and acknowledged as Doc. No. 437; Page No. 89; Book No. VI; Series of 1988." [22]

Respondents argued that they have satisfied all the requisites for the grant of a new trial based on newly discovered evidence: (1) they discovered the evidence after the trial court rendered its judgment on December 27, 2005; (2) they could not have discovered and produced the evidence during the trial with reasonable diligence; and (3) the evidence was material, not merely cumulative, corroborative, or impeaching, and was of such weight that, if admitted, would probably change the judgment. On the second requisite, respondents explained that they could not have discovered the evidence with reasonable diligence because they relied in good faith on the veracity of the RTC Order dated June 30, 1989, based on the principle that the issuance of a court order, as an act of a public officer, enjoys the presumption of regularity. On the third requisite, respondents pointed out that, if the nonexistence of Cadastral Case No. 10 and the invalidity of the Order dated June 30, 1989 were allowed to be proven by the newly discovered evidence, the action for quieting of title would probably be dismissed, as respondents' levy would be declared superior to petitioners' claim.[23]

In their Comment/Opposition, petitioners argued that (a) the questioned decision was a partial summary judgment which could not be the subject of a motion for new trial; (b) the existence of Cadastral Case No. 10 was an admitted fact which could not be questioned in a motion for new trial; and (c) there was no newly discovered evidence that would warrant a new trial.[24]

The CA did not agree with petitioners. Hence, on January 31, 2007, it granted respondents' motion for new trial,

thus:

WHEREFORE, premises considered, the defendants-appellants having satisfied all the elements necessary to justify the filing of a Motion for New Trial which appears to be meritorious and in the higher interest of substantial justice, the said motion is GRANTED.

ACCORDINGLY, let a new trial of the Quieting of Title case be held and let said case be REMANDED to the Court a quo for said purpose.

SO ORDERED.[25]

At the outset, the CA noted that the RTC summary judgment was a proper subject of an appeal because it was a final adjudication on the merits of the case, having completely disposed of all the issues except as to the amount of damages. The CA concluded that respondents properly availed of a motion for new trial because such remedy could be availed of at any time after the appeal from the lower court had been perfected and before the CA loses jurisdiction over the case. According to the CA, respondents were able to show that they obtained the new evidence only after the trial of the case and after the summary judgment had been rendered. The CA also held that respondents never admitted during the pre-trial the existence of Cadastral Case No. 10; they only admitted the existence of the Order dated June 30, 1989 in Cadastral Case No. 10.

On July 16, 2007, the CA denied petitioners' motion for reconsideration.[26]

Petitioners subsequently filed this petition for review on certiorari, raising the following issues:

A.

WHETHER OR NOT THE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT THE QUESTIONED DECISION OF THE RTC IS A PROPER SUBJECT OF AN APPEAL AND A MOTION FOR NEW TRIAL UNDER RULE 53 OF THE RULES OF COURT.

B.

WHETHER OR NOT THE COURT OF APPEALS SERIOUSLY ERRED IN FAILING TO RULE THAT A MOTION FOR NEW TRIAL IS AN IMPROPER REMEDY TO QUESTION ADMITTED FACTS.

C.

WHETHER OR NOT THE COURT OF APPEALS SERIOUSLY ERRED IN FAILING TO RULE THAT NO NEWLY DISCOVERED EVIDENCE WAS ADDUCED TO WARRANT A NEW TRIAL.[27]

Petitioners posit that no appeal could be taken from the trial court's decision because it did not completely dispose of all the issues in the case; it failed to settle the issue on damages. Petitioners categorize the decision as a partial summary judgment, which in *Guevarra, et al. v. Hon. Court of Appeals, et al.*, [28] reiterated in *GSIS v. Philippine Village Hotel, Inc.*, [29] the Court pronounced as not a final and an appealable judgment, hence, interlocutory and clearly an improper subject of an appeal. Petitioners theorize then that the appeal could not have been perfected and the CA could not have acquired jurisdiction over the case, including the motion for new trial. Accordingly, they conclude that the motion for new trial should have been denied outright for being violative of Section 1, [30] Rule 53 of the Rules of Court, which provides that the motion for new trial may be filed after the appeal has been perfected. Petitioners argue that, pursuant to Section 4, Rule 35 of the Rules of Court, trial should proceed instead to settle the issue on damages. Petitioners point out that the case cited by the CA in its Decision, *Bell Carpets International Trading Corporation v. Court of Appeals*, [31] is not applicable to the case because, unlike in the present case, the trial court's ruling completely disposed of all the issues in that case.

In addition, petitioners insist that respondents already admitted the existence of Cadastral Case No. 10 by its admission of the existence of the Order dated June 30, 1989. They maintain that respondents cannot admit the existence of an order and yet deny the existence of the proceedings from which the order emanates. Respondents' judicial admission that the court Order existed necessarily carried with it the admission that the cadastral proceedings where the Order was issued likewise existed. Petitioners aver that respondents are bound by their judicial admission and they cannot be allowed to present evidence to contradict the same.

Petitioners next argue that the purported newly discovered pieces of evidence have no probative value. Petitioners say that the certifications are self-serving and inconclusive opinions of court employees, who did not even indicate the period when they occupied their positions and state whether they had the authority to issue such certifications and whether they had personal knowledge of the documents archived during the year that the deed of sale was executed. According to petitioners, the certifications cannot overcome the presumption of regularity in the issuance of the Order dated June 30, 1989. At most, the certifications would simply show that the records of Cadastral Case No. 10 could no longer be found in the records; hence, they would have no bearing on the result of the case.

Petitioners also emphasize that respondents failed to meet the burden of proving that the newly discovered pieces of evidence presented comply with the requisites to justify the holding of a new trial. They contend that respondents could have discovered and presented in court the certifications during trial had they exercised reasonable diligence.

Petitioners' arguments are untenable.

The issue of whether the RTC judgment is a final judgment is indeed crucial. If the judgment were not final, it would be an improper subject of an appeal. Hence, no appeal would have been perfected before the CA, and the latter would not have acquired jurisdiction over the entire case, including the motion for new trial. But more importantly, only a final judgment or order, as opposed to an interlocutory order, may be the subject of a motion for new trial.

A final judgment or order is one that finally disposes of a case, leaving nothing more for the court to do in respect thereto, such as an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right, or a judgment or order that dismisses an action on the ground of *res judicata* or prescription, for instance.[32] Just like any other judgment, a summary judgment that satisfies the requirements of a final judgment will be considered as such.

A summary judgment is granted to settle expeditiously a case if, on motion of either party, there appears from the pleadings, depositions, admissions, and affidavits that no important issues of fact are involved, except the amount of damages.[33] The RTC judgment in this case fully determined the rights and obligations of the parties relative to the case for quieting of title and left no other issue unresolved, except the amount of damages. Hence, it is a final judgment.

In leaving out the determination of the amount of damages, the RTC did not remove its summary judgment from the category of final judgments. In fact, under Section 3,[34] Rule 35 of the Rules of Court, a summary judgment may not be rendered on the amount of damages, although such judgment may be rendered on the issue of the right to damages.[35]

In *Jugador v. De Vera*,[36] the Court distinguished between the determination of the amount of damages and the issue of the right to damages itself in case of a summary judgment. The Court elucidated on this point, thus:

[A] summary judgment may be rendered except as to the amount of damages. In other words, such judgment

may be entered on the issue relating to the existence of the right to damages. Chief Justice Moran pertinently observes that "if there is any real issue as to the amount of damages, the c[o]urt, after rendering summary judgment, may proceed to assess the amount recoverable." [37]

It is therefore reasonable to distinguish the present case from *GSIS v. Philippine Village Hotel, Inc.* [38] In that case, the summary judgment specifically stated that "[t]rial on the issu[e] of damages shall resume." Evidently, there remained an unresolved issue on the right to damages. Here, the trial court, in stating that "except as to the amount of damages, a summary judgment is hereby rendered in favor of the plaintiffs and against the defendants," had, in effect, resolved all issues, including the right to damages in favor of the plaintiffs (petitioners). What remained undetermined was only the amount of damages.

On the issue of whether respondents are proscribed from presenting evidence that would disprove the existence of Cadastral Case No. 10, we likewise sustain the CA.

A judicial admission is an admission, verbal or written, made by a party in the course of the proceedings in the same case, which dispenses with the need for proof with respect to the matter or fact admitted. It may be contradicted only by a showing that it was made through palpable mistake or that no such admission was made. [39]

During the pre-trial, respondents categorically admitted the existence of the Order dated June 30, 1989 only. The Court cannot extend such admission to the existence of Cadastral Case No. 10, considering the circumstances under which the admission was made. In construing an admission, the court should consider the purpose for which the admission is used and the surrounding circumstances and statements. [40] Respondents have constantly insisted that, in making the admission, they relied in good faith on the veracity of the Order which was presented by petitioners. Moreover, they relied on the presumption that the Order has been issued by Judge Enrique T. Jocson in the regular performance of his duties. It would therefore be prejudicial and unfair to respondents if they would be prevented from proving that the Order is in fact spurious by showing that there was no Cadastral Case No. 10 before the RTC, Branch 47, of Bacolod City.

Finally, we find that a new trial based on newly discovered evidence is warranted. New trial is a remedy that seeks to "temper the severity of a judgment or prevent the failure of justice." Thus, the Rules allows the courts to grant a new trial when there are errors of law or irregularities prejudicial to the substantial rights of the accused committed during the trial, or when there exists newly discovered evidence. [41] The grant or denial of a new trial is, generally speaking, addressed to the sound discretion of the court which cannot be interfered with unless a clear abuse thereof is shown. [42]

This Court has repeatedly held that before a new trial may be granted on the ground of newly discovered evidence, it must be shown (1) that the evidence was discovered after trial; (2) that such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (3) that it is material, not merely cumulative, corroborative, or impeaching; and (4) the evidence is of such weight that it would probably change the judgment if admitted. If the alleged newly discovered evidence could have been very well presented during the trial with the exercise of reasonable diligence, the same cannot be considered newly discovered. [43]

The only contentious element in the case is whether the evidence could have been discovered with the exercise of reasonable diligence. In *Custodio v. Sandiganbayan*, [44] the Court expounded on the due diligence requirement, thus:

The threshold question in resolving a motion for new trial based on newly discovered evidence is whether the [proffered] evidence is in fact a "newly discovered evidence which could not have been discovered by due diligence." The question of whether evidence is newly discovered has two aspects: a temporal one, i.e., when

was the evidence discovered, and a predictive one, i.e., when should or could it have been discovered. It is to the latter that the requirement of due diligence has relevance. We have held that in order that a particular piece of evidence may be properly regarded as newly discovered to justify new trial, what is essential is not so much the time when the evidence offered first sprang into existence nor the time when it first came to the knowledge of the party now submitting it; what is essential is that the offering party had exercised reasonable diligence in seeking to locate such evidence before or during trial but had nonetheless failed to secure it.

The Rules do not give an exact definition of due diligence, and whether the movant has exercised due diligence depends upon the particular circumstances of each case. Nonetheless, it has been observed that the phrase is often equated with "reasonable promptness to avoid prejudice to the defendant." In other words, the concept of due diligence has both a time component and a good faith component. The movant for a new trial must not only act in a timely fashion in gathering evidence in support of the motion; he must act reasonably and in good faith as well. Due diligence contemplates that the defendant acts reasonably and in good faith to obtain the evidence, in light of the totality of the circumstances and the facts known to him.[45]

As previously stated, respondents relied in good faith on the veracity of the Order dated June 30, 1989 which petitioners presented in court. It was only practical for them to do so, if only to expedite the proceedings. Given this circumstance, we hold that respondents exercised reasonable diligence in obtaining the evidence. The certifications therefore qualify as newly discovered evidence.

The question of whether the certifications presented by respondents have any probative value is left to the judgment and discretion of the trial court which will be hearing the case anew.

WHEREFORE, premises considered, the petition is DENIED. The Court of Appeals Resolutions dated January 31, 2007 and July 16, 2007 are AFFIRMED.

### **SO ORDERED.**

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

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[1] Penned by Associate Justice Agustin S. Dizon, with Associate Justices Isaias P. Dicdican and Francisco P. Acosta, concurring; rollo, pp. 40-47, 61.

[2] Id. at 65-66.

[3] Id. at 71.

[4] Id. at 165-176.

[5] Id. at 231.

[6] Id. at 232.

[7] Id. at 70.

[8] Id. at 279.

[9] Id. at 260.

[10] Id. at 270-277.

[11] Id. at 289-294.

[12] Id. at 73.

[13]Id. at 295.

[14] Id. at 295-307.

[15] Id. at 301-302.

[16] Id. at 307.

[17] Id. at 308.

[18]Id. at 315-339.

[19] Id. at 310-311.

[20] Id. at 312.

[21]Id. at 313.

[22]Id. at 314.

[23]Id. at 321-325.

[24] Id. at 358-365.

[25] Id. at 47.

[26] Supra note 1.

[27] Rollo, pp. 452-453.

[28] 209 Phil. 241 (1983).

[29] 482 Phil. 47 (2004).

[30] Section 1. Period for filing; ground. - At any time after the appeal from the lower court has been perfected and before the Court of Appeals loses jurisdiction over the case, a party may file a motion for new trial on the ground of newly discovered evidence which could not have been discovered prior to the trial in the court below by the exercise of due diligence and which is of such character as would probably change the result. The motion shall be accompanied by affidavits showing the facts constituting the grounds therefor and the newly discovered evidence.

[31] G.R. No. 75315, May 7, 1990, 185 SCRA 35.

[32] *Intramuros Tennis Club, Inc. v. Philippine Tourism Authority*, 395 Phil. 278, 293 (2000).

[33] *Cotabato Timberland Co., Inc. v. C. Alcantara and Sons, Inc.*, G.R. No. 145469, May 28, 2004, 430 SCRA 227, 233.

[34] Section 3. Motion and proceedings thereon. - The motion shall be served at least ten (10) days before the time specified for the hearing. The adverse party may serve opposing affidavits, depositions, or admissions at least three (3) days before the hearing. After the hearing, the judgment sought shall be rendered forthwith if the pleadings, supporting affidavits, depositions, and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

[35] FLORENZ D. REGALADO, *I REMEDIAL LAW COMPENDIUM*, 368 (Eighth Revised Edition 2002).

[36] 94 Phil. 704 (1954).

[37] Id. at 710.

[38] Supra note 29.

[39] Camitan v. Fidelity Investment Corporation, G.R. No. 163684, April 16, 2008, 551 SCRA 540, 549.

[40] Harmon v. Christy Lumber, Inc., 402 NW2D 690 (1987); see Moffett v. Arabian American Oil Co., Inc., 85 F. Supp. 174 (1949).

[41] Brig. Gen. Custodio v. Sandiganbayan, 493 Phil. 194, 203-204 (2005).

[42] Philippine Long Distance Telephone Company v. Commissioner of Internal Revenue, G.R. No. 157264, January 31, 2008, 543 SCRA 329, 340.

[43] Custodio v. Sandiganbayan, supra, at 204-205.

[44] Id.

[45] Id. at 206.

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